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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,065	02/13/2002	William Eugene Moser	47440-044001	7475
7590	01/06/2005		EXAMINER	
Stephen T. Scherrer McDermott, Will & Emery 227 West Monroe Street Chicago, IL 60606-5096			ABEL JALIL, NEVEEN	
			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/075,065	MOSER ET AL.
	Examiner	Art Unit
	Neveen Abel-Jalil	2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 September 2004.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
 SAM RIMELL  
 PRIMARY EXAMINER

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. The amendment filed on September 14, 2004 has been received and entered. Claims 1-20 are pending.
2. Amendment to claim 12 has been acknowledged and entered.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-5, 8-12, 14, 16-17, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Gibbs (U.S. Patent No. 5,836,529).

As to claim 1, Gibbs discloses a method for inspecting rail equipment and storing information relating to the inspection comprising:

providing rail equipment having a plurality of parts (See column 3, lines 4-30);  
inspecting the rail equipment to determine a damage condition of each of the parts of the rail equipment (See column 16, lines 5-67, also see column 4, lines 1-37);  
providing a data entry system for recording the condition of the parts of the rail equipment wherein the data entry system comprises a plurality of fields for entering information

related to the damage condition of the rail equipment (See column 15, lines 15-58, also see column 16, lines 47-54, wherein "damage condition" reads on "mechanical failure"); inputting the information into the data entry system (See column 2, lines 38-67); generating at least one report related to an overall damage condition of the rail equipment that is calculated from the information input into the data entry system (See column 18, lines 1-67, also see column 21, lines 1-41, and see column 9, lines 31-56); and providing a database interconnected with the data entry system for storing information input into the data entry system or generated by the data entry system (See column 10, lines 26-36, and see column 7, lines 18-47, and see column 8, lines 42-66).

As to claims 3, Gibbs discloses wherein the data entry system stores information relating to a plurality of types of railcars (See column 3, lines 4-30).

As to claim 4, Gibbs discloses wherein the railcars may be selected from the group consisting of box cars, flat cars, hopper cars, general purpose tank cars, open top hopper and gondola cars, plastic pellet cars, pressure differential cars and pressure tank cars (See column 16, lines 13-51).

As to claim 5, Gibbs discloses wherein the report comprises information related to whether the rail equipment must be repaired or whether the rail equipment is useable in its present state (See column 10, lines 62-67; and column 11, lines 34, also see column 16, lines 35-67, and

column 17, lines 1-24).

As to claim 8, Gibbs discloses assigning a damage indicator for each part of the rail equipment (See column 2, lines 18-67, wherein “damage indicator” reads on “detection signals”, also see column 10, lines 62-67, and column 11, lines 1-5); and  
inputting the damage indicator for each part of the rail equipment into the data entry system (See column 19, lines 4-59).

As to claim 9, Gibbs discloses adding information into the data entry system relating to the inspector of the rail equipment (See column 1, lines 60-67, and see column 2, lines 1-17).

As to claim 10, Gibbs discloses wherein the information further comprises the identity of the rail equipment (See column 3, lines 4-30, also see column 10, lines 46-67, and see column 11, lines 1-62).

As to claim 11, Gibbs discloses selecting a record of rail equipment from the database (See column 2, lines 38-67);  
editing information on the record of the rail equipment (See column 10, lines 26-36, and see column 7, lines 18-47, and see column 8, lines 42-66); and  
saving the information to the database (See column 10, lines 26-36).

As to claim 12, Gibbs discloses a data entry system for inputting information related to an inspection of rail equipment wherein the rail equipment comprises a plurality of parts comprising:

means for inputting information relating to the type of rail equipment (See column 3, lines 4-30);

means for inputting information relating to an identification of the rail equipment (See column 3, lines 4-30, also see column 10, lines 46-67, and see column 11, lines 1-62);

means for inputting information relating to a damage condition of each of the parts of the rail equipment (See column 4, lines 11-18, also see column 22, lines 1-22, also see column 16, lines 47-54, wherein "damage condition" reads on "mechanical failure"); and

means for calculating an overall damage condition for the rail equipment based on information relating to the damage condition of each of the parts of the rail equipment (See column 21, lines 1-41, also see column 9, lines 31-56); and

means for generating at least one report related to the information entered about the damage condition of each of the parts of the rail equipment (See column 18, lines 1-67, also see column 22, lines 23-67, also see column 21, lines 1-41, and see column 9, lines 31-56).

As to claim 14, Gibbs discloses a database for storing the information input into the data entry system (See column 6, lines 12-28, also see column 8, lines 16-41).

As to claim 16, Gibbs discloses wherein the rail equipment is a railcar (See column 7, lines 37-67).

As to claim 17, Gibbs discloses wherein the information relating to the condition of the rail equipment indicates whether the rail equipment is damaged (See column 4, lines 11-18, also see column 22, lines 1-22).

As to claim 19, Gibbs discloses wherein the reports indicate whether the rail equipment is useable in its present form or whether the rail equipment needs repairs (See column 19, lines 4-45).

As to claim 20, Gibbs discloses means for saving the information and reports into a database (See column 18, lines 1-67).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 6-7, 13, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibbs (U.S. Patent No. 5,836,529) in view of Jarrett (U.S. Patent No. 6,345,257 B1).

As to claim 2, Gibbs does not teach wherein the report comprises information relating to an estimated cost of repair of the rail equipment.

Jarrett teaches wherein the reports comprise information relating to an estimated cost of repair of the rail equipment (See column 15, lines 27-67).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Gibbs to include wherein the reports comprise information relating to an estimated cost of repair of the rail equipment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Gibbs by the teaching of Jarrett to include wherein the reports comprise information relating to an estimated cost of repair of the rail equipment because showing the cost associated with repair allows for better business management and ultimately cost reduction for the corporation.

As to claim 6, Gibbs does not teach wherein the report further comprises information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shopped.

Jarrett teaches wherein the reports further comprise information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shopped (See column 1, lines 46-67, also see abstract).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Gibbs to include wherein the reports further comprise information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shopped.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Gibbs by the teaching of Jarrett to include wherein the reports further comprise information related to whether the rail equipment is repairable by a mobile repair unit or whether the rail equipment must be shopped because it allows for quicker and efficient response time to problem reporting thereby cutting operational business costs.

As to claims 7, and 18, Gibbs does not teach printing blank forms relating to the rail equipment from the data entry system.

Jarrett teaches printing blank forms relating to the rail equipment from the data entry (See column 7, lines 63-67, and see column 8, lines 1-13).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Gibbs to include printing blank forms relating to the rail equipment from the data entry.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Gibbs by the teaching of Jarrett to include printing blank forms relating to the rail equipment from the data entry because it allows for accommodation of user preferences and customization and provides for availability of on the spot trouble data entry means

for maintenance/inspection crew.

As to claim 13, Gibbs does not teach wherein the report comprises information relating to an estimated cost of repair for the rail equipment based on the information input relating to the condition of the railcar equipment.

Jarrett teaches wherein the reports comprise information relating to an estimated cost of repair for the railcar equipment based on the information input relating to the condition of the railcar equipment (See column 15, lines 27-67, also see column 5, lines 15-25).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Gibbs to include wherein the reports comprise information relating to an estimated cost of repair for the railcar equipment based on the information input relating to the condition of the railcar equipment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Gibbs by the teaching of Jarrett to include wherein the reports comprise information relating to an estimated cost of repair for the railcar equipment based on the information input relating to the condition of the railcar equipment because showing the cost associated with repair allows for better business management and ultimately cost reduction for the corporation.

As to claim 15, Gibbs does not teach means for calculating an estimated total repair cost for the rail equipment.

Jarrett teaches means for calculating an estimated total repair cost for the rail equipment (See column 15, lines 27-67).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Gibbs to include means for calculating an estimated total repair cost for the rail equipment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Gibbs by the teaching of Jarrett to include means for calculating an estimated total repair cost for the rail equipment because showing the cost associated with repair allows for better business management and ultimately cost reduction for the corporation.

***Response to Arguments***

7. Applicant's arguments filed on September 14, 2004 have been fully considered but they are not persuasive.

In response to applicant's argument that "Gibbs does not disclose recording (inputting) damage condition of each of the parts of the rail equipment" is acknowledged but it is not deemed to be persuasive.

Database systems as they are well known and accepted in the art, collect and hold any user defined data whether its specific to damage condition or any condition of the rail equipment, which encompasses railcars, disclosed in Gibbs (See abstract, also see Gibbs discloses in column 4, lines 1-37, a "system wide view" concerning the status, condition, and overall performance of the transportation network (i.e. trains, terminals, crews, locomotives, etc.). Gibbs in column 16,

lines 47-54 discloses mechanical failure codes for each part of the system, accordingly damage condition of each of the parts of the rail equipment. It is the norm when monitoring and tracking equipment, to report all conditions of the equipment both healthy and damaged. Gibbs discloses in column 4, lines 1-37, a “system wide view” concerning the status, condition, and overall performance of the transportation network (i.e. trains, terminals, crews, locomotives, etc.). Gibbs in column 16, lines 47-54 discloses mechanical failure codes for each part of the system, accordingly damage condition of each of the parts of the rail equipment.

In response to applicant’s argument that “Gibbs does not disclose at least one report is generated relating to an overall damage condition of the rail equipment that is calculated from the information input into the data entry system on the damage condition of each of the parts of the rail equipment” is acknowledged but it is not deemed to be persuasive.

The Examiner respectfully refers to Gibbs column 28, lines 31-39, wherein generating a report representing real time status and performance of the one the transport is disclosed. “Status” indication is well understood to include healthy and damaged condition according to user defined monitoring rules. Also, railcars are considered part of the rail equipment category among others see Gibbs in column 28, lines 39-44, wherein other information regarding the transport is also being collected by Gibbs invention. Especially, in column 21, lines 1-41, Gibbs discloses an overall locomotive (including all equipment part) utilization report and a method for object based railroad transportation network management. In column 9, lines 31-56, Gibbs disclose various reports can be generated according to any user selection criteria.

In response to applicant's argument that "Gibbs does not disclose determining an overall damage condition of rail equipment based on the damage condition of each of the parts of the rail equipment" is acknowledged but it is not deemed to be persuasive.

Nowhere in the applicant claimed language, does the recitation "determining an overall damage condition" is being disclosed. Beyond this, the mere operation of addition or any other calculations to achieve the sum of all parts is being done in the art today after gathering the individual part status. Gibbs discloses in column 4, lines 1-37, a "system wide view" concerning the status, condition, and overall performance of the transportation network (i.e. trains, terminals, crews, locomotives, etc.). Gibbs in column 16, lines 47-54 discloses mechanical failure codes for each part of the system, accordingly damage condition of each of the parts of the rail equipment.

### *Conclusion*

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5: 30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 571-272-4038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Neveen Abel-Jalil  
December 23, 2004



SAM RIMELL  
PRIMARY EXAMINER